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PEDDLERS AND SOLICITORS

7.000 Definitions

For purposes of this section, the following words have the following meanings:

- (1) Charitable means and includes the words patriotic, philanthropic, social service, health, welfare, benevolent, educational, civic, cultural or fraternal, either actual or purported.
- (2) Contributions mean and includes the words alms, money, subscription, property, pledge, or any donations under the guise of a loan or money or property.
- (3) License Review Officer means the Finance Director or the Director's designee.
- (4) Peddler means any person over the age of sixteen (16) years who goes upon the premises of any private residence in the City, without invitation of the occupant or owner thereof, to offer goods, merchandise, or personal property, for sale, or to solicit orders for goods or services to be delivered in the future.
- (5) Peddling includes all activities ordinarily performed by a peddler as indicated under paragraph (4) of this Section.
- (6) Person means a natural person or any firm, corporation, club, society or other organization.
- (7) Solicitor means any person sixteen years of age or older who goes upon the premises of any private residence in the City without invitation of the occupant or owner thereof, and who communicates in any manner for the purpose of taking orders or attempting to take orders for the sale of goods, merchandise, wares or other personal property of any nature for future delivery or for services to be performed in the future. This definition also includes any person who, without invitation of the occupant or owner, goes upon private property to request contribution of funds or anything of value, or to sell goods or services, for any political, charitable, religious, or other non-commercial purpose.
- (8) Solicitation includes all activities, as ordinarily performed by a solicitor as indicated under paragraph (7) of this Section.

7.010 Permit Required

- (1) It shall be unlawful for any person sixteen years or older to engage in peddling or solicitation activities within the City without first obtaining a permit from the City.
- (2) It is an affirmative defense to prosecution under this section that a person has written

permission from a property owner or occupant before soliciting upon that owner's or occupant's premises.

7.020 Application

(1) Any person who wishes to solicit within the City shall file a written application with the City, through the Department of Finance, which shall show:

(a) Proof of a valid City of Wilsonville business license or proof of exemption from the business license requirements.

(b) Proof of the age, identity and the home address of the applicant. A valid driver's license or other legally recognized form of identification constitutes acceptable proof.

(c) The name, address and telephone number of the employer, firm, association, organization, or company which the applicant represents or is employed by.

(d) Written proof of authority to represent the company or individual.

(e) A brief description of the nature, character, and quality of the goods to be sold or information given.

(f) If a motor vehicle is to be used, a description of the vehicle, together with the motor vehicle registration number and license number.

(g) The hours and location for which the right to peddle or solicit is desired.

(h) The dates of solicitation.

(i) A statement as to whether or not the applicant has been convicted of a felony, misdemeanor or ordinance violation (other than traffic violations), the nature of the offense or violation, the penalty or punishment imposed, the date when and place where such offense occurred, and other pertinent details thereof.

(g) Proof of possession of any license or permit which, under federal, state or local laws or regulations, the applicant is required to have in order to conduct the proposed business, or which, under any such law or regulation, would exempt the applicant from the licensing requirements of this section.

The application shall be accompanied by a fee in the amount of \$20.00. The City Council may from time to time change the fee amount by resolution.

(3) A permit issued under this section shall be valid for the length of time requested and shown on the permit, not to exceed six months. Upon expiration of a permit, the solicitor or peddler may apply for a new permit in the manner prescribed by this section.

(4) It shall be unlawful for any person to intentionally misrepresent or provide false information in the permit application filed with the City.

7.030 Permit Procedure

(1) After receiving a completed application, the Department of Finance shall issue a solicitation permit within five (5) working days unless it has been determined that the application contains false information or the person has been convicted within the last five (5) years of a felony, in which case the permit shall not be issued.

(2) The permit card shall contain the name, address and telephone number of the solicitor or peddler, a permit number, the kinds of goods or services to be sold or delivered, the location for peddling and solicitation and date of expiration.

(3) It shall be unlawful for any person to peddle or solicit at locations or for the kinds of goods and services not listed in the permit.

(4) It shall be unlawful for any person soliciting to fail or refuse to display such permit card upon the request of any prospective customer or City officer or employee.

7.040 Solicitation Requirements

(1) It shall be unlawful for any person, whether a solicitation permit has been issued or otherwise, to go upon private, residential, commercial or industrial property to solicit or peddle where the property owner or lessee has posted the words "No Solicitors" or their equivalent, in a conspicuous place near the entrance to the residence or property, unless invited by the occupant or owner of the premises.

(2) Solicitation and/or peddling will only be permitted between the hours of 9:00 a.m. and 8:00p.m. local time.

7.050 Permit Revocation

Any permit issued under this Ordinance may be revoked or suspended by the Director of Finance, after notice and hearing, for any of the following reasons:

(1) Fraud, misrepresentation or false statement contained in the application for a permit;

(2) Fraud, misrepresentation or false statement made by the permittee in the course of conducting solicitation or peddling activities;

(3) Conducting peddling or solicitation activities contrary to the provisions contained in the

permit;

(4) Conviction for any crime involving moral turpitude; or

(5) Conducting peddling or solicitation activities in such a manner as to create a public nuisance, constitute a breach of the peace or endanger the health, safety or general welfare of the public.

7.060 Notice and Hearing

Notice of a hearing for revocation of a permit issued under this Ordinance shall be provided in writing and shall set forth specifically the grounds for the proposed revocation and the time and place of the hearing. Notice shall be mailed, postage prepaid, to the permittee at the address shown on the permit application or at the last known address of the permittee.

7.070 Appeal

Any person who has been denied a permit to solicit may appeal to the License Review Officer by filing an appeal in the form of a letter or other statement within ten days after notice of denial has been mailed by the City. The appeal shall set forth in writing the grounds for the appeal. A hearing on the denial shall be scheduled within 20 days of the filing of the appeal, and the decision and order of the License Review Officer shall be final. The License Review Officer shall be the Director of Finance or his or her designee.

7.080 Penalty

(1) Any person who violates any of the provisions of WC 7.010, 7.020, 7.030, and 7.040 or any determination issued upon an appeal to the License Review Officer or any revocation by the Finance Director shall be punished for a violation pursuant to WC 1.012, and upon second conviction shall be punished for a Class C Misdemeanor pursuant to WC 1.011.

(2) The provisions of WC 7.050(1) are not intended to be exclusive, and the City by and through the City Attorney may seek any and all other forms of relief, including, but not limited to, injunctive or declaratory relief.

(Section 7.000 Prohibition and Section 7.010 Penalty were repealed in their entirety by Ord. No. 495. Sections 7.000 – 7.080 added by Ord. 495 adopted 1/6/98).

TRANSIENT LODGING TAX

7.200 Definitions.

(1) Except where the context otherwise requires, the definitions given in this section govern the construction of Sections 7.210 to 7.280:

(a) Hotel means any structure or any portion of any structure which is occupied or intended or designed for transient occupancy for thirty (30) days or less for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, public or private dormitory, public or private club, and also means space in mobile home or trailer parks, or similar structure or space or portions thereof so occupied, provided such occupancy is for less than a thirty (30) day period.

(b) Occupancy means the use or possession, or the right to the use or possession for lodging or sleeping purposes of any room or rooms in a hotel, or space in a mobile home or trailer park or portion thereof.

(c) Operator means the person who is proprietor of the hotel in any capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of Sections 7.200 to 7.280 and shall have the same duties and liabilities as his principal. Compliance with the provisions of these sections by either the principal or managing agent shall be considered to be compliance by both.

(d) Person means an individual, firm, partnership, joint venture, association, social club, fraternal organization, public or private dormitory, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(e) Cash Accounting means the operator does not enter the rent due from a transient on his records until rent is paid.

(f) Accounting means the operator enters the rent due from a transient on his records when the rent is earned, whether or not it is paid.

(g) Rent means the consideration charged, whether or not received by the operator, for the occupancy of space in a hotel, valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction.

(h) Rent Package Plan means the consideration charged for both food and rent where a single rate is made for the total of both. The amount applicable to rent for determination of transient room tax under Sections 7.210 to 7.280 shall be the same charge made for rent when not a part of a package plan.

(i) Tax means either the tax payable by the transient or the aggregate amount of taxes due from an operator during the period for which he is required to report his collections.

(j) Tax Administrator means the City Recorder of the City of Wilsonville, Oregon.

(k) Transient means any individual who exercises occupancy or is entitled to occupancy in a hotel for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. The day a transient checks out of the hotel shall not be included in determining the thirty (30) day period if the transient is not charged rent for that day by the operator. Any such individual so occupying space in a hotel shall be deemed to be a transient until the period of thirty (30) days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy, or the tenancy actually extends more than thirty (30) consecutive days. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this Code may be considered. A person who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a transient.

(l) Transient Lodgings Tax Review Committee means a committee composed of an accountant, an operator and two residents of the City appointed by the Mayor, and approved by the Council.

7.210 Tax - Imposed.

(1) For the privilege of occupancy in any hotel in the City, on and after July 1, 1975, each transient shall pay a tax in the amount of five percent (5%) of the rent charged by the operator. The tax constitutes a debt owed by the transient to the City, which is extinguished only by payment by the operator to the City. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. The operator shall enter the tax on his records when rent is collected if the operator keeps his records on the cash accounting basis and when earned if the operator keeps his records on the accrual accounting basis. If rent is paid in installments, a proportionate share of the tax shall be paid by the transient to the operator with each installment. In all cases, the rent paid or charged for occupancy shall exclude the sale of any goods, services and commodities, other than the furnishing of rooms, accommodations, and space occupancy in mobile home parks or trailer parks.

(2) If another taxing body imposes a tax upon the privilege of occupancy at any hotel in the City, the Council shall have the authority to enter into an agreement with such other taxing body to share the transient lodging tax. But in no event shall the City receive an amount in excess of five percent (5%) of the rent charged by the operator.

7.212 Tax - Collection by Operator.

(1) Every operator renting rooms or space for lodging or sleeping purposes in this City, the occupancy of which is not exempt and under the terms of Section 7.216, shall collect a tax from

the occupant. The tax collected or accrued by the operator constitutes a debt owing by the operator to the City.

(2) In all cases of credit or deferred payment of rent, the payment of tax to the operator may be deferred until the rent is paid, and the operator shall not be liable for the tax until credits are paid or deferred payments are made. Adjustments may be made for uncollectible.

(3) The tax administrator shall enforce provisions of Sections 7.200 to 7.280 and shall have the power to adopt rules and regulations not inconsistent with this Code as may be necessary to aid in the enforcement.

(4) For rent collected on portions of a dollar, fractions of a penny of tax shall not be remitted.

7.214 Tax - Operators Duties.

(1) Each operator shall collect the tax imposed by Section 7.210 at the same time as the rent is collected from every transient. The amount of tax shall be separately stated upon the operator's records, and any receipt rendered. No operator of a hotel shall advertise that the tax or any part of the tax will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, when added, any part will be refunded, except in the manner provided by these sections.

7.216 Tax - Exemptions.

(1) No tax imposed under Section 7.210 shall be imposed upon:

(a) Any occupant for more than thirty (30) successive calendar days (a person who pays on a monthly basis, irrespective of the number of days in such month, shall not be deemed transient);

(b) Any occupant whose rent is of a value less than two dollars (\$2.00) per day;

(c) Any person who rents a private home, vacation cabin, or like facility from any owner who rents such facilities incidental to his own use thereof.

7.218 Due Date, Returns and Payments.

(1) The tax imposed by Section 7.210 shall be paid by the transient to the operator at the time that rent is paid. All amounts of such taxes collected by any operator are due and payable to the tax administrator on a quarterly basis on the fifteenth of the following month for the preceding three (3) months, and are delinquent on the last day of the month in which they are due. The initial return under this section may be for less than the three (3) months preceding the due date; thereafter, returns shall be made for the applicable quarterly period. The operator may retain five percent (5%) of the total tax in each return for his administrative costs.

(2) On or before the fifteenth day of the month following each quarter of collection, a return for the preceding quarter's tax collections shall be filed with the tax administrator. The returns shall be filed in such form as the tax administrator may prescribe by every operator liable for payment of tax.

(3) Returns shall show the amount of tax collected or otherwise due for the related period. The tax administrator may require returns to show the total rentals upon which tax was collected or otherwise due, gross receipts of operator for such period and an explanation in detail of any discrepancy between such amounts, and the amount of rents exempt, if any.

(4) The person required to file the return shall deliver the return, together with the remittance of the amount of the tax due, to the tax administrator at his office, either by personal delivery or by mail. If the return is mailed, the postmark shall be considered the date of delivery for determining delinquencies.

(5) For a good cause, the tax administrator may extend for not to exceed one (1) month the time for making any return or payment of tax. No further extension shall be granted, except by the Transient Lodgings Tax Review Committee. Any operator to whom an extension is granted shall pay interest at the rate of one percent (1%) per month on the amount of tax due without proration for a fraction of a month. If a return is not filed, and the tax and interest due is not paid by the end of the extension granted, then the interest shall become a part of the tax for computation of penalties described in Section 7.220.

(6) The tax administrator, if he deems it necessary in order to insure payment or facilitate collection by the City of the amount of taxes in any individual case may require returns and payment of the amount of taxes for other than quarterly periods.

7.220 Penalties and Interest.

(1) Original Delinquency. Any operator who has not been granted an extension of time for remittance of tax due and who fails to remit any tax imposed by Section 7.200 prior to delinquency shall pay a penalty of ten percent (10%) of the amount of the tax due in addition to the amount of the tax.

(2) Continued Delinquency. Any operator who has not been granted an extension of time for remittance of tax due, and who failed to pay any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of fifteen percent (15%) of the amount of the tax due plus the amount of the tax and the ten percent (10%) penalty first imposed.

(3) Fraud. If the tax administrator determines that the nonpayment of any remittance due under Section 7.210 is due to fraud or intent to evade the provisions thereof, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in paragraphs (1) and (2) of this section.

(4) Interest. In addition to the penalties imposed, any operator who fails to remit a tax imposed by Section 7.210 shall pay interest at the rate of one-half of one percent (1/2 of 1%) per month or a fraction thereof without pro ration for portions of a month, on the amount of the tax due, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

(5) Penalties Merged With Tax. Every penalty imposed and such interest as accrues under the provisions of this section shall be merged and become a part of the tax herein required to be paid.

(6) Petition for Waiver. Any operator who fails to remit the tax herein levied within the time herein stated shall pay the penalties herein stated, provided, however, the operator may petition the Transient Lodgings Committee for waiver and refund of the penalty or any portion thereof and the Transient Lodgings Tax Review Committee may, if a good and sufficient reason is shown, waive and direct a refund of the penalty and any portion thereof.

7.222 Deficiencies.

(1) If the tax administrator determines that the returns are incorrect, he may compute and determine the amount required to be paid upon the basis of the facts contained in the return or returns, or upon the basis of any information within his possession or that may come into his possession. One or more deficiency determinations may be made of the amount due for one, or more than one, period, and the amount so determined shall be due and payable immediately upon service of notice as herein provided after which the amount determined is delinquent. Penalties on deficiencies shall be applied as set forth in Section 7.220.

(2) In making a determination the tax administrator may offset overpayments, if any, which may have been previously made for a period or periods, against any underpayment for a subsequent period or periods, or against penalties and interest on the underpayments. The interest on underpayments shall be computed in the manner set forth in Section 7.220.

(3) The tax administrator shall give to the operator or occupant a written notice of his determination. The notice may be served personally or by mail. If by mail, the notice shall be addressed to the operator at his address as it appears on the records of the tax administrator. In case of service by mail or any notice required by these sections, the service is complete at the time of deposit in the United States Post Office.

(4) Except in the case of fraud or intent to evade Sections 7.200 to 7.276 or authorized rules and regulations, every deficiency determination shall be made and notice thereof mailed within three (3) years after the last day of the month following the close of the quarterly period for which the amount is proposed to be determined or within three (3) years after the return is filed, whichever period expires the later.

(5) Any determination shall become due and payable upon receipt of notice and shall become final within ten (10) days after the tax administrator has given notice thereof, provided, however, the operator may petition redemption and refund if the petition is filed before the determination becomes final as herein provided.

7.224 Fraud or Evasion.

(1) If any operator shall fail or refuse to collect said tax or to make within the time provided in Section 7.200 to 7.276 any report in remittance of said tax or any portion thereof required by these sections, or make a fraudulent return or otherwise willfully attempts to evade these sections, the tax administrator shall proceed in such manner as he may deem best to obtain facts and information on which to base an estimate of the tax due. As soon as the tax administrator has determined the tax due that is imposed by Sections 7.210 to 7.276 from any operator who has failed or refused to collect the same and to report and remit said tax, he shall proceed to determine and assess against such operator the tax, interest and penalties provided for by these sections. In case such determination is made, the tax administrator shall give a notice in the manner aforesaid of the amount so assessed. Such determination and notice shall be made and mailed within three (3) years after discover by the tax administrator of any fraud, intent to evade or failure or refusal to collect said tax, or failure to file a return. A determination shall become due and payable immediately upon receipt of notice and shall become final within ten (10) days after the tax administrator has given notice thereof, provided, however, the operator may petition for redemption and refund if the petition is filed before the determination becomes final as herein provided.

7.226 Operator Delay.

(1) If the tax administrator believes that the collection of any tax or any amount of tax required to be collected and paid to the City will be jeopardized by delay, or if any determination will be jeopardized by delay, he shall thereupon make a determination of the tax or amount of tax required to be collected, noting the fact upon the determination. The amount so determined as herein provided shall be immediately due and payable, and the operator shall immediately pay such determination to the tax administrator after service of notice thereof; provided, however, the operator may petition, after payment has been made, for redemption and refund of such determination, if the petition is filed within ten (10) days from the date of service of notice by the tax administrator.

7.230 Registration of Operator - General.

(1) Every person engaging or about to engage in business as an operator of a hotel in the City shall register with the tax administrator on a form provided by him. Operators engaged in business at the time this Code is adopted must register not later than twenty (20) calendar days after passage of this code. Operators starting business after this Code is adopted must register within fifteen (15) calendar days after commencing business. The privilege of registration after

the date of imposition of such tax shall not relieve any person from the obligation of payment or collection of tax regardless of registration.

7.232 Registration of Operator - Form and Contents.

(1) Registration shall set forth the name under which an operator transacts or intends to transact business, the location of his place or places of business and such other information to facilitate the collection of the tax as the tax administrator may require. The registration shall be signed by the operator.

7.234 Registration of Operator - Certificate of Authority.

(1) The tax administrator shall, within ten (10) days after registration issue without charge a certificate of authority to each registrant to collect the tax from the occupant, together with a duplicate thereof for each additional place of business of each registrant. Certificates shall be non-assignable and nontransferable and shall be surrendered immediately to the tax administrator upon the cessation of business at the location named or upon its sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed therein so as to be seen and come to the notice readily of all occupants and persons seeking occupancy.

(2) Said certificate shall, among other things, state the following:

- (a) The name of the operator;
- (b) The address of the hotel;
- (c) The date upon which the certificate was issued;
- (d) "THIS TRANSIENT OCCUPANCY REGISTRATION

CERTIFICATE signifies that the person named on the face hereof has fulfilled the requirements of the TRANSIENT LODGINGS TAX ORDINANCE of Wilsonville, Oregon, by registration with the tax administrator for the purposes of collection from transients the lodgings tax imposed by said City and remitting said tax to the tax administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a hotel without strictly complying with all of the local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of the City of Wilsonville. This certificate does not constitute a permit."

7.240 Redetermination.

(1) Any person against whom a determination is made under Sections 7.222 to 7.226 or any person directly interested may petition for a redetermination and redemption and refund within the time required in Sections 7.222 to 7.226. If a petition for redetermination and refund is not filed within the time required in Sections 7.222 to 7.226, the determination becomes final at the expiration of the allowable time.

(2) If a petition for redetermination and refund is filed within the allowable period, the tax administrator shall reconsider the determination, and, if the person has so requested in his petition, shall grant the person an oral hearing and shall give him ten (10) days' notice of the time and place of the hearing. The tax administrator may continue the hearing from time to time as may be necessary.

(3) The tax administrator may decrease or increase the amount of the determination as a result of the hearing and if an increase is determined such increase shall be payable immediately after the hearing.

(4) The order or decision of the tax administrator upon a petition for redemption or redetermination and refund becomes final ten (10) days after service upon the petitioner of notice thereof, unless appeal or such order or decision is filed with the Transient Lodgings Tax Review Committee within the ten (10) days after service of such notice.

(5) No petition for redetermination or redemption and refund or appeal therefrom shall be effective for any purpose unless the operator has first complied with the payment provisions hereof.

7.250 Refunds.

(1) Refunds by City to Operator. Whenever the amount of any tax, penalty, or interest has been paid more than once or has been erroneously or illegally collected or received by the tax administrator under Sections 7.210 to 7.276, it may be refunded, provided a verified claim in writing therefore, stating the specific reason upon which the claim is founded, is filed with the tax administrator within three (3) years from the date of payment. The claim shall be made on forms provided by the tax administrator. If the claim is approved by the tax administrator, the excess amount collected or paid may be refunded or may be credited on any amount then due and payable from the operator from who it was collected or by whom paid and the balance may be refunded to such operator, his administrators, executors or assignees.

(2) Refunds by City to Transient. Whenever the tax required by Sections 7.210 to 7.276 has been collected by the operator, and deposited by the operator with the tax administrator, and it is later determined that the tax was erroneously or illegally collected or received by the tax administrator, it may be refunded by the tax administrator to the transient, provided a verified claim in writing therefore, stating the specific reason on which the claim is founded is filed with the tax administrator within three (3) years from the date of payment.

(3) Refunds by Operator to Tenant. Whenever the tax required by Sections 7.210 to 7.276 has been collected by the operator and it is later determined that the tenant occupies the hotel for a period exceeding thirty (30) days without interruption, the operator shall refund to such tenant the tax previously collected by the operator from that tenant as a transient. The operator shall account for such collection and refund to the tax administrator. If the operator has remitted the tax prior to refund or credit to the tenant, he shall be entitled to a corresponding refund under this section.

7.260 Security for Collection of Tax.

(1) The tax administrator, whenever he deems it necessary to ensure compliance with Sections 7.210 to 7.276 may require any operator subject thereto to deposit with him such security in the form of cash, bond, or other security as the tax administrator may determine. The amount of the security shall be fixed by the tax administrator but shall not be greater than twice the operator's estimated average quarterly liability for the period for which he files returns, determined in such manner as the tax administrator deems proper, or five thousand dollars (\$5,000), whichever amount is lesser. The amount of the security may be increased or decreased by the tax administrator subject to the limitations herein provided.

(2) At any time within three (3) years after any tax or any amount of tax required to be collected becomes due and payable or at any time within three (3) years after any determination becomes final, the tax administrator may bring an action in the courts of this state, or any other state, or of the United States in the name of the City to collect the amount delinquent together with penalties and interest.

7.270 Administration - General.

(1) Every operator shall keep guest records of room sales and accounting books and records of the room sales. All records shall be retained by the operator for a period of three (3) years and six (6) months after they come into being.

(2) The tax administrator, or any person authorized in writing by him, may examine during normal business hours, the books, papers and accounting records relating to room sales of any operator, after notification to the operator liable for the tax, and may investigate the business of the operator in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid.

(3) It shall be unlawful for the tax administrator or any person having an administrative or clerical duty under the provisions of Sections 7.210 to 7.276 to make known in any manner whatever the business affairs, operations or information obtained by an investigation of records and equipment of any persons required to obtain a Transient Occupancy Registration Certificate, or pay a transient occupancy tax, or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth in any statement or application, or to permit any statement or application, or copy of either, or any book containing any abstract or particulars thereof to be seen or examined by any person; provided that nothing in this subsection shall be construed to prevent:

(a) The disclosure to, or the examination of records and equipment to another City official, employee or agent for collection of taxes for the sole purpose of administrating or enforcing any provisions of Sections 7.210 to 7.276, or collecting taxes imposed hereunder.

(b) The disclosure, after the filing of a written request to that effect, to the taxpayer himself, receivers, trustees, executors, administrators, assignees, and guarantors, if

directly interested, of information as to any paid tax, any unpaid tax or amount of tax required to be collected, or interest and penalties; further provided, however, that the City Attorney approves each such disclosure and that the tax administrator may refuse to make any disclosure referred to in this paragraph when in his opinion the public interest would suffer thereby.

(c) The disclosure of the names and addresses of any persons to whom Transient Occupancy Registration Certificates have been issued.

(d) The disclosure of general statistics regarding taxes collected or business done in the City.

7.272 Administration - Transient Lodgings Tax Review Committee.

(1) A Transient Lodgings Tax Review Committee is hereby created to be composed of an accountant, an operator, as herein defined, and two residents of the City. The committee shall select from its members a chairman who shall serve at its pleasure. Three members of the committee shall constitute a quorum. The committee shall keep a record of its transactions. The committee shall be deemed to be in the office of the tax administrator and shall meet and keep its files in his office. The members of the committee shall not, at any time, receive any compensation as such members or acting members for their services on the committee. The committee shall be appointed by the Mayor and approved by the Council and shall serve three (3) year terms.

(2) The committee shall have power and it shall be its duty:

(a) To hear and determine appeals of orders or decisions of the tax administrator made upon petitions for redetermination of tax. The committee may affirm, modify or reverse such orders or decisions or dismiss the appeals therefrom, as may be just, and shall prescribe such forms, rules and regulations relating to appeals as it may deem necessary. In the review of the tax administrator decision or order, the committee may take such evidence and make such investigation as it may deem necessary. It shall give notice of its determinations in the manner prescribed for service of notice of a tax administrator's decision and shall file a copy of each such determination with the tax administrator with certification thereon of the date of service thereof. Such determination shall become final ten (10) days thereafter and shall thereupon become due and payable, subject to interest and penalties, and enforceable by the tax administrator in like manner as an order or decision of the tax administrator.

(b) To approve, modify, or disapprove all forms, rules and regulations prescribed by the tax administrator in the administration and enforcement of Sections 7.210 to 7.276 and such forms, rules and regulations adopted or promulgated after October 1, 1975, shall be subject to, and become effective only on, such approval.

(c) To hear and determine in such manner as shall be just, any protest which may be made by any person who may be interested, to any rule, form or regulation approved or prescribed by the committee.

(d) To grant for good cause, applications for extensions of time in excess of one (1) month, for making any return or payment of tax, and to prescribe rules therefore.

(e) To make such investigations as it deems advisable regarding the imposition and administration of the transient lodgings tax and report its findings to the City Council; to act in an advisory capacity to the Council on matters pertaining to the transient lodgings tax and enforcement problems and to recommend to the Council the adoption, amendment, or repeal of legislation pertaining thereto.

7.274 Administration - Appeal to Committee.

(1) Any person aggrieved by any decision of the tax administrator may appeal to the Transient Lodgings Tax Review Committee by filing a notice of appeal with the tax administrator within ten (10) days of the serving or mailing of the notice of a decision given by the tax administrator. The tax administrator shall fix a time and place for hearing such appeal as prescribed by the Transient Lodgings Tax Review Committee in its rules and regulations and shall give the appellant ten (10) days written notice of the time and place of hearing.

7.276 Administration - Appeal to Council.

(1) Any person aggrieved by any decision of the Transient Lodgings Tax Review Committee may appeal to the City Council by filing a notice of appeal with the tax administrator within ten (10) days of the serving or the mailing of the notice of the decision given by the Transient Lodgings Tax Review Committee. The tax administrator shall submit said notice of appeal, together with the file of said appealed matter to the Mayor who shall fix a time and place for hearing such appeal from the decision of the Transient Lodgings Tax Review Committee. The Mayor shall give the appellant not less than ten (10) days written notice of the time and place of hearing of said appealed matter. Action by the Council on appeal shall be decided by a majority of the members present at the meeting where such appeal is considered.

7.280 Violations.

(1) Any operator or other person who shall fail or refuse to register as required herein, or who shall fail or refuse to furnish any return, supplemental return or other data required herein or by the tax administrator, or, with intent to defeat or evade the determination of any amount due hereunder, shall make, render, sign or verify any false or fraudulent report, commits an offense which constitutes a violation of Section 7.210 to 7.276, punishable upon conviction as a violation pursuant to Section 1.012. (Amended by Ordinance #253 - February 21, 1984).

BUSINESS LICENSES

7.300 Business Licensing Requirements.

(1) Unless exempt under the provisions of Subsection (4), it is unlawful for a person to carry on or engage in any business within the City without first having obtained a business license from the City.

(2) A person who carries on or engages in a business that is illegal under applicable City, State, and Federal laws is prohibited from being issued a business license.

(3) As used in Sections 7.300 to 7.370, “person” means domestic or foreign corporations, cooperative corporations, associations, syndicates, partnerships, limited liability companies, professional liability companies, joint ventures, non-profits, individuals, or groups of individuals.

(4) As used in Sections 7.300 to 7.370, “business” means any profession, trade, or occupation carried on for a livelihood or profit, but excluding the following businesses as exempt from the business license requirement:

(a) Suppliers to retailers, and those engaged in wholesale selling, who do not have a place of business in the City;

(b) Municipal, State, or Federal agencies or employees;

(c) Any person employed in the City by one engaged in business in the City, if the employer is licensed pursuant to Sections 7.300 through 7.370 to conduct a business in the City; otherwise such persons shall themselves be deemed to be engaged in business and subject to the requirements of these Sections;

(d) Any person transacting and carrying on any business which is exempt from a license tax by virtue of the Constitution of the United States, the Constitution of the State of Oregon, the laws of the United States, or the laws of the State of Oregon;

(e) Any person engaged as a landlord in leasing property, unless such person leases at any one time more than two (2) separate rental units or parcels (and/or buildings), whether it be residential or commercial, or both, in which event, if the annual gross income from rental exceeds \$500.00, such person shall be deemed to be engaged in business.

7.310 Purpose.

(1) Sections 7.300 to 7.360 are enacted to provide revenue for municipal purposes, as provided by Chapter II, Section 3 of the Wilsonville Charter of 1969.

(2) The levy or collection of a license fee and the issuance of a license shall not be construed as a permit by the City for the person to whom such license is issued to engage in any business which is unlawful, illegal or prohibited by the laws of the United States or the laws of the State of Oregon, or this Code.

7.320 Fee.

- (1) No person who is required to be licensed under the provisions of Section 7.300 shall engage in business in the City until he has paid a license fee.
- (2) The annual license fee for each fiscal year commencing July 1, 1975, and payable on or before July 15th shall be \$100.00 plus \$3.00 per each employee who is actively engaged in the City in his/her employer's business, except, however, that if a business has an annual net income of \$12,000.00 or less, the annual license fee shall be \$50.00 plus \$3.00 per each employee. The fee for businesses whose total annual gross income is documented to be less than \$500.00 will be waived.
- (3) The license fee for the period January 1 to July 1 in any year hereafter shall be one-half (1/2) the annual license fee, payable on or before January 15th; and the annual license fee as required by the foregoing subsection (2) shall be paid hereafter for each year or fraction thereof that the licensee continues in business in the City and is otherwise subject to the requirements of this Code. (Amended by Ordinance #205, - March 5, 1982).
- (4) The license fees prescribed in the foregoing subsections (2) and (3) shall be paid to the City Recorder upon the filing of an application for a business license or upon the annual renewal of a business license.
- (5) Each branch establishment of any business for the purpose of Sections 7.300 to 7.320 shall be considered a separate business and subject to the license therefore, as herein provided, but a warehouse or storage building used solely in connection with the business licensed and operated by the person conducting such business shall not be considered a separate business or branch establishment.

7.330 Application.

- (1) All business licenses shall be issued by the City Recorder of the City of Wilsonville, Oregon.
- (2) The application for such license shall be filed with the City Recorder, and the application form shall be furnished by him, and shall contain the following information:
 - (a) Brief description of the trade, shop, business, profession, occupation or calling carried on or to be carried on in the City.
 - (b) The name of the owner, the name of the applicant, if different from that of the owner, and his title, and the address of such person
 - (c) The address of the principal office of such business; and in cases of corporations, the state of incorporation.

- (d) The location of the place in the City where such business is to be carried on.
- (e) Date of application.
- (f) Amount of money tendered with application.

(g) A signed notarized statement by the applicant, affirming that all of information provided is true and correct and that the business for which the application is being made is not illegal under any applicable state, federal, and local laws.” Applications granted under false pretenses where the business being operated is a, in fact, an illegal business will be subject to immediate revocation.

(3) The City Recorder shall have authority to reject any application of a license or to postpone the issuance of a license when a materially falsification of the application is evident.

7.340 Enforcement -Notice.

(1) If the City Council or any member thereof or any other person designated by the Council to enforce Sections 7.300 to 7.370 has reason to believe that any person is doing business in the City without first having obtained a license to conduct such business, the Council or person designated by the Council shall issue a NOTICE to the person believed to be doing business in the City requiring such person to apply to the City Recorder within fifteen (15) days from the date of such NOTICE for a business license. Such notice may be served personally on the person to whom such NOTICE is given by a City Police Officer or by any other person designated by the Council, or such NOTICE may be served by Certified Mail, and a copy of the NOTICE showing the date and manner of service shall be filed immediately with the City Recorder. Any person upon whom such NOTICE is served and who feels that he is not subject to licensing under this Code shall appear before the City Recorder, either personally or in writing, within fifteen (15) days from the date of such NOTICE and request a hearing before the City License Review Board.

7.342 Enforcement - License Review Board.

(1) A License Review Board is hereby created. It shall consist of three (3) members, who are qualified electors of the City, and shall be appointed by the Mayor with the consent of the Council, and shall hold office at the pleasure of the Mayor. The Mayor shall designate one of the members as the Chairman of the Board and another as its Secretary, who shall keep a record of its decisions.

7.344 Enforcement - Hearing.

(1) When any person has filed a request with the City Recorder for a hearing before the License Review Board, the City Recorder shall notify the Chairman of the Board of such request, and the Board shall hold a hearing within thirty (30) days to consider such matter, and Notice of

the time, place and purpose of such hearing shall be mailed by the City Recorder, by First Class Mail, to the person requesting such hearing.

(2) Decisions of the Board shall be limited to interpretations of Sections 7.300 to 7.370. It shall adopt rules of procedure for considering matters before it and may act by majority vote. It shall render its findings and decisions in writing. One copy thereof shall be filed with the City Recorder, and one copy filed with the City Police Department, and one copy delivered to the person requesting the hearing. The decisions of the Board shall be conclusive, except in case of mistake or fraud. The Board may recommend to the Council amendments to Sections 7.300 to 7.370 and other new legislation.

7.350 License - Transfer.

(1) If any person licensed to do business within the City shall sell or transfer such business to another, the license for such business shall be transferred to such other person upon application being made to the City Recorder for a transfer permit, and upon payment of \$5.00 transfer fee. The City Recorder shall provide the necessary application and transfer permit forms; and shall make appropriate entry in the records of licenses after a transfer of business has been completed.

7.352 License - Records.

(1) The City Recorder shall make and keep as a part of the City's records a record of each person licensed to transact and carry on a business in the City, which is required to be licensed by Section 7.300. Such records shall include copies of all applications for licenses, licenses issued, licenses transferred, appropriate information concerning the action of the Recorder in rejecting any application for a license, or in postponing the issuance of any license, and the action of the License Review Board. All such records shall be of a public nature and open to the inspection of any person at any reasonable time; but no part of such records shall be removed from the City Hall, except by authority of the City Recorder or Council.

7.360 Violation.

(1) It shall be unlawful for any person to willfully make any false or misleading statement to either the City Recorder or the License Review Board for the purpose of either avoiding the payment of a license fee or for the purpose of obtaining a business license; and it shall be unlawful for any person to refuse to comply with any of the provisions of Sections 7.300 to 7.370 to be complied with or observed by such person; or to fail or refuse to pay a license fee, if required by Sections 7.300 to 7.370, or to refuse or fail to pay any penalty that might lawfully be assessed against such person under the provisions of Section 7.300 to 7.370.

(2) In the event any person hereby required to obtain a license shall fail or neglect to obtain the same within fifteen (15) days from the date he engages in a business in the City required to be licensed under Section 7.300, or within fifteen (15) days from the anniversary date of any

license previously issued, if such person continues to engage in such business, the Recorder shall collect upon payment thereof and in addition thereto a penalty of ten percent (10%) of the annual license fee for each calendar month, fraction thereof, during which the same shall be delinquent.

7.370 Penalty.

(1) The conviction of any person for violation of any provision of Sections 7.300 to 7.360 shall not operate to relieve such person from paying any license fee required to be paid, or any penalty thereon; nor shall the payment of any such fee be a bar to or prevent any prosecution in the Municipal Court of any complaint for the violation of any of the provisions of this Code.

(2) Any person violating any of the provisions of Section 7.300 to 7.360 shall, upon a first conviction thereof, be punished for a violation pursuant to Section 1.012 and upon a subsequent conviction thereof, be punished for a Class C Misdemeanor, pursuant to Section 1.011.

(Amended by Ordinance #253 - February 21, 19/84).

(3) Any business operating without a business license, will be subject to an action by the City in Circuit Court to immediately seek in junctive relief to enjoin operation of said business This remedy is nonexclusive and is in addition to all other remedies available at law and in equity for such violation.

Sections 7.300, 7.320, 7.330 and 7.370 amended 2/3/14 by Ordinance No. 734.

7.400 Definitions

(1) As used in this ordinance, the following terms shall have the following meaning unless the context clearly indicates that a different meaning is intended:

(a) Association: Any club, group or organization, whether organized for business purposes, civic purposes, religious purposes or other purposes.

(b) Business Entity: Any sole proprietorship, self-employed person, partnership, limited partnership, corporation including nonprofit corporations engaged in any business enterprise, and any firm, association or entity of any kind engaged in business. This term shall also include any personal representative or assignee of any business entity.

(c) City: The City of Wilsonville.

(d) Collector: The City Collector of the City. This may be an employee of the City or a contact agent or agency as the City Council shall from time to time determine. The City Manager shall have supervisory responsibilities over the Collector.

(e) Commission Merchant or Commission Employee: Any person who engages in the sale of goods for compensation in the form of a commission only and is subject to withholding under ORS Chapter 316. This also includes any person who buys and resells goods if the person does not maintain a retail store or wholesale sales floor and does not store goods except during a short period before transportation to the buyer.

(f) Corporation: Any business corporation and any nonprofit corporation organized under the laws of this state, or under the laws of any jurisdiction.

(g) Employee: Any individual employed by another, for wages. This also includes all real estate sales people employed by a real estate broker and paid on a commission basis, and all mechanics who perform services for customers of an auto repair shop and who are paid by the owner of the auto shop for each repair or maintenance job done provided that such remuneration is subject to withholding under ORS Chapter 316.

(h) Employer: It has the meaning prescribed by ORS 267.380.

(i) Firm: Any sole proprietorship, partnership, corporation, joint venture, limited partnership or other form of organization formed for the purpose of doing business.

(j) Individual: A natural person

(k) Payroll Expense: The wages paid by any employer to any employee. Payroll expenses also include the commission received by a commission merchant or a commission employee if such a person is subject to withholding under ORS Chapter 316.

(l) Personal Representative: Any trustee, receiver, executor, administrator, guardian, conservator or similar personal representative of any person, firm, association or corporation.

(m) Taxpayer: Any person, firm, corporation or association required by this ordinance to file a return or to pay a Payroll & Self-Employment Tax.

(n) Local Transit Area: Designated areas within a boundary Established by the City which will receive benefits of operation, management or delivery of a transit system.

(o) Net Earnings from Self Employment: Has the definition as prescribed by ORS 267.380.

(p) Wages: As prescribed by ORS 267.380. (Added by Ordinance #340 - December 19, 19/88)

7.402 Application Doing Business In The City.

(1) The Payroll & Self Employment Tax shall apply only to persons, firms, corporations and associations doing business within the boundaries of the City of Wilsonville.

(2) A person, firm, corporation or association is doing business within the boundaries of the local transit area if such entity does any of the following:

(a) Employs one or more employees, commission merchants or commission employees to work in the City,

(b) Maintains a place of business in the City,

(c) Owns, manages or leases property in the City. Managing rental property owned by such entity or by others is included.

(d) Solicits any business within the City, provided that solicitation is by mail or telephone contacts only, and solicitation by advertising only shall not subject any entity to the Payroll & Self Employment Tax.

(e) Uses the streets within the City for any reason in connection with the work of any employee, commission merchant, or commission employee.

(f) Maintains any place of business in the City, provided that any employer not maintaining a place of business in the City, but doing any of the acts described in paragraphs (2a) through (2e), immediately above, shall be subject to the Payroll & Self Employment Tax. (Added by Ordinance #340 - December 19, 1988)

7.404 Payroll & Self Employment Tax Imposed

(1) To carry out the purposes set forth herein, an excise tax is hereby imposed and levied on every person, firm, corporation or association doing business within the boundaries of the local transit area, which employs one or more employees, or contracts orally or in writing with any commission merchant or commission employee. For the same purpose, a tax is imposed on each individual's net earnings from self-employment. The amount of the tax shall be .5 percent of the total payroll expense of each taxpayer or of the individual's net earnings from self-employment as the case may be. The Payroll & Self Employment Tax shall be in full force and effective from and after January 1, 1990, and shall apply to payroll expenses and net earnings from self-employment incurred after that date. This tax is imposed for the provision of public transportation services within the local transit area in order to provide for the business community to carry a share of the costs of local government in return for the benefits and opportunities available because of City services. (Amended by Ordinance #360 - November 20, 1989) (Amended by Ordinance # 652, 10/1/08)

7.406 Apportionment of Tax

(1) The Payroll & Self Employment Tax applies to the payrolls of employees either working or being paid within the local transit area or doing business within the local transit area unless a portion of or all of the payroll is subject to a like type tax by Tri-Met. If an employer employs or pays some individuals within the local transit area and employees or pays some individuals outside of the local transit area who are subject to Tri-Met tax, then the tax shall apply only to the payroll covering employees working or being paid within the local transit area who are not subject to Tri-Met Tax. If any employee spends part of his working hours within the City and part outside of the City, the fraction or percentage of the payroll of that employee to be taxed shall be determined as follows:

(a) If the employee's compensation depends on the amount of sales or volume of repair work or other services done, only the payroll attributable to sales made or services done in the local transit area shall be subject to the payroll tax.

(b) If the employee is paid on any other basis, the fraction or percentage of the payroll concerning that employee to be taxed shall equal the fraction or percentage of the employee's working hours spent in the local transit area. The same apportionment is applicable to net earnings from self-employment if any of said earnings are subject to the Tri-Met Payroll and Self Employment Tax. (Added by Ordinance #340 - December 19, 1988)

7.408 Alternate Method of Apportioning Tax

(1) Any taxpayer may, at the taxpayer's sole option, propose an alternate method to the methods of apportioning the payroll tax set out in the preceding section of this ordinance. If, due to the circumstances of the taxpayer's business, the methods set out in the preceding section result in more of the taxpayer's payroll being taxed than can reasonably be attributed to the

connection of the taxpayer and the employees, commission merchants or commission employees within the local transit district, and if the proposed alternate method does provide for a reasonably accurate proportion of the taxpayer's payroll to be subject to the tax, the Collector may approve the alternate method and the amount of Payroll & Self Employment Tax owed by the taxpayer shall be the amount determined by the alternate method. (Added by Ordinance #340 - December 19, 1988)

7.410 Fixed Percentage

(1) If the Collector finds that the percentage of any taxpayer's payroll required to be apportioned to business done in the local transit area remains stable with little variation, the Collector may notify the taxpayer that a fixed percentage has been established and that the percentage does not have to be calculated when each return is filed. If the taxpayer objects within thirty days of receiving such notice, the fixed percentage shall not be put into effect and the percentage shall continue to be determined as before. If the taxpayer does not object, such fixed percentage shall remain in effect until changed by action of the Collector, or changed by the taxpayer as follows:

At any time the use of the fixed percentage may be discontinued, at the sole option of the taxpayer, by the taxpayer giving thirty days' notice to the Collector. Each taxpayer whose payroll tax is determined by use of a fixed percentage under this section has a continuing duty to notify the Collector immediately of any significant change in conditions which would change the proportion of the payroll reasonably attributable to business done or work done in the local transit district. The Collector may change or discontinue the use of a fixed percentage at any time. (Added by Ordinance #340 - December 19, 1988)

7.412 Employer Located Outside of Local Transit District

(1) Employers located outside of the local transit area are subject to the Payroll & Self Employment Tax if any employee, commission merchant or commission employee of the employer does business in the local transit area in any way designated in Section 7.402 of this ordinance. Each such employer shall contact the City Collector to obtain forms and shall file all returns required by this ordinance. (Added by Ordinance #340 - December 19, 1988)

7.414 Exceptions

- (1) Wages which are excluded as remuneration paid under ORS 267.380.
- (2) Any payroll of any employer subject to the Tri-Met payroll or self-employment tax. (Added by Ordinance #340 - December 19, 1988)

7.416 Nature of the Tax

(1) The tax imposed by this ordinance is a tax on persons, firms, corporations and associations doing business in the local transit area. It is not a tax on employees. The Payroll & Self Employment Tax shall not be withheld by the employer from the employee's compensation. (Added by Ordinance #340 - December 19, 1988)

7.418 Date Due, Returns, Payments, Prepayments and Extensions

(1) Taxpayers shall comply with the following requirements concerning returns, payments, prepayments and extensions.

(2) Taxes shall be determined for:

(a) Payroll - each quarter of the calendar year, and the tax due for each quarter of the calendar year shall be paid on or before April 30, June 30, September 30 and January 31.

(b) Self-Employment - each quarter of the calendar year, and the tax due for each quarter of the calendar year shall be paid on or before April 15, June 15, September 15 and January 15. (Added by Ordinance #340 - December 19, 1988)

7.420 Rebates

(1) The Collector may request approval from the City Council to grant tax rebates or credits based on the financial performance of the transportation fund, giving due consideration to projected operating expenses and prudent reserved.

(2) Rebates will be returned to taxpayers on a pro-rata basis less costs of administration of such rebates and any incentive charges. (Added by Ordinance #340 - December 19, 1988)

7.422 Collectors Duties

(1) The Collector shall have the following duties in connection with the Payroll & Self Employment Tax:

(a) Keep accurate records of all returns and of all sums received for Payroll & Self Employment Tax. Such records shall contain the names and addresses of each taxpayer, and the dates and amounts of payments. The nature of installment payments shall be indicated on the records. The Collector shall keep the original returns on file for a period of not less than three years after filing.

(b) Enforce the provisions of this ordinance.

(c) Prepare forms and instructions for the returns and payments required by this ordinance.

(d) Examine returns, and, for any returns appearing to be incorrect, make inquiries, investigations and adjustments in the amount of tax due.

(e) Where necessary to determine accurate figures for determining the amount of tax due, examine books, records, and information stored in computers of any taxpayer, provided that each City officer or employee acting under this ordinance shall identify himself or herself and request the information desired. If the officer or employee is refused admission to any place of business or refused access to any records or computer memory, the Collector or employee shall leave the premises and shall seek an appropriate court order, with the assistance of the City attorney, to obtain access to the information needed.

(f) The Collector may delegate duties assigned to the Collector in this ordinance to any officer or employee under the Collector's supervision, provided that the Collector shall approve the form of all returns and written instructions.

(g) The Collector shall prepare pamphlets for distribution to the public, clearly explaining the Payroll & Self Employment Tax and the returns and payments require.

(h) The Collector shall perform all of the other duties assigned to the Collector by this ordinance. (Added by Ordinance #340 - December 19, 1988)

7.424 Penalties and Interest

(1) Original Delinquency. Any operator who has not been granted an extension of time for filing a return or remittance of tax due and who fails to remit any tax imposed by Section 7.404 et seq prior to delinquency, shall pay a penalty of ten percent (10%) of the amount of tax due in addition to the amount of the tax.

(2) Continued Delinquency. Any operator who has not been granted an extension of time for filing a return or remittance of tax due, and who failed to pay any delinquent remittance on or before a period of thirty (30) days following the date on which the remittance first became delinquent, shall pay a second delinquency penalty of fifteen percent (15%) of the amount of the tax due plus the amount of the tax and the ten percent (10%) penalty first imposed.

(3) Fraud. If the Collector determines that the failure to file a return or that the nonpayment of any remittance due under Section 7.404 et seq is due to fraud or intent to evade the provisions thereof, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to the penalties stated in paragraphs (1) and (2) of this section.

(4) Interest. In addition to the penalties imposed, any operator who fails to remit a tax imposed by Section 7.404 et seq shall pay interest at the rate of one and one-half (1 1/2%)

percent per month or a fraction thereof, on the amount of the tax due, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

(5) **Penalties Merged With Tax.** Every penalty imposed and such interest as accrues under provisions of this section shall be merged and become a part of the tax herein required to be paid. Payments shall first be applied to penalties imposed, then to interest accrued, then taxes due.

(6) **Attorney Fees.** In the event it becomes necessary for an enforcement of the provisions of this ordinance for the City of Wilsonville to incur attorney fees expense and cost, the tax payer shall be assessed any such expense and/or cost and it shall be due and owing upon billing and shall bear interest at the rate of one and one-half (1 1/2%) percent per month.

(7) **Imposition of Civil Penalties.** An imposition of any civil penalties, interest, fees, or costs by this section shall not be a bar for any prosecution under section 7.446. (Added by Ordinance #340 - December 19, 1982)

7.426 Failure to File, Failure to Pay, Underpayments

(1) The following rules apply when a taxpayer fails to file a return, fails to pay the Payroll & Self Employment Tax when due or pays less than the amount due.

(2) If a taxpayer fails to make a return, the Collector shall prepare an estimate of the amount of Payroll & Self Employment Tax due from the taxpayer, based on the best information available to the Collector. The Collector may make investigations to assist in making the estimate. The Collector may consider the number of employees, the wages or other compensation customarily paid in the type of business, the volume of business done and customary commissions or bonuses paid to employees in the same type of business, and any other relevant matters. The Collector may estimate the compensation customary in the business by comparing returns filed by other taxpayers in the same business or similar businesses. When the Collector estimates the Payroll & Self Employment Tax, the amount of the interest and late charge provided by this ordinance shall be added to the taxes due. The Collector shall notify the taxpayer of the amount due. Such notification shall be in writing and shall contain a brief description of the method and estimated figures used in arriving at the estimated tax. Any taxpayer may dispute the amount of the estimated tax by filing, within thirty (30) days of notification of the estimated tax, a tax return accompanied by payment of the entire balance due, together with interest and late charge due. Such return shall be processed like any late return, and shall establish the payroll tax liability of the taxpayer in place of the estimated tax prepared by the Collector. The Collector may, however, later determine that the amount shown on the return is insufficient, so there is a deficiency, in the same manner as in the case of other returns.

(3) If the Collector determines, by examining available evidence that the amount of Payroll & Self Employment Tax paid by any taxpayer is less than the amount required by this ordinance, the Collector shall notify the taxpayer of the deficiency. The Collector may use any of the methods authorized by Sections 7.400 et seq of this section to determine whether a deficiency exists and to determine the amount of such deficiency. The Collector shall thereupon notify the

taxpayer of the deficiency. Such notice shall be in writing and shall state not only the amount of the deficiency, but also the methods and estimates used in arriving at the amount of deficiency. If the taxpayer does not object within thirty days of the date of receiving such notice, the taxpayer shall be deemed to have accepted the revised figures for payroll tax liability. If the taxpayer does file a written objection within the time specified, the taxpayer shall pay the tax, together with penalties and interest, under protest, and may thereupon, pursue administrative and judicial remedies as provided by ordinance and by state law, to seek a refund.

(4) If the Collector finds that any taxpayer has overpaid, the Collector shall notify the taxpayer of the taxpayer's overpayment and shall refund the amount of the overpayment to the taxpayer in accordance with Section 7.424.

(5) When the Collector notifies any taxpayer of any estimated tax, alleged overpayment or refund, the Collector shall include in the notice clear instruction on how, when and where the taxpayer may protest or appeal the decision.

(6) If a taxpayer or any person, firm, association or corporation required by this ordinance to pay a tax or to file a return shall fail to file any return for any year, such failure to file shall constitute a continuing offense against the City and the Collector may proceed to estimate and collect the Payroll & Self Employment Tax at any time. In all other cases, no increase shall be made in any taxpayer's payroll tax liability unless the first notice of such increase is received by the taxpayer within three years of the time the return was first due. (Added by Ordinance #340 - December 19, 1982)

7.428 Tax as Debt; Termination of Taxable Period and Immediate Assessment of Tax

(1) Every tax imposed upon employers measured by wages paid to employees and upon self-employed persons measured by net earnings from self-employment, and all increases, interest and penalties thereon shall become, from the time such liability is incurred, a personal debt, due the District, from the person or persons liable therefor.

(2) If the Collector finds that the taxpayer designs to depart quickly from the state or to remove his property therefrom, or to do any other act tending to prejudice or to render wholly or partially ineffectual proceedings to collect the tax for any past quarter or the tax quarter then current, unless such proceedings be brought without delay, the Collector shall declare the current taxable period for such taxpayer immediately terminated and shall cause notice of such finding and declaration to be given the taxpayer. Simultaneously, the Collector, on the basis of the best information available to it, shall assess a tax for such terminated period and for the preceding tax quarter (if no return has been filed therefore, whether or not the time otherwise allowed by law for filing such return and paying the tax has expired), and shall assess additional tax for any quarters open to assessment under provisions of the applicable law. The Collector shall give notice to the taxpayer of all taxes so assessed. Such taxes shall thereupon become immediately due and payable as soon as the notice and findings are issued to the taxpayer or mailed to his last known address. In any proceeding in court brought to enforce payment of taxes made due and payable by virtue of the provisions of this section, the findings of the Collector, made as

provided in this section, whether made after notice to the taxpayer or not, shall be for all purposes presumptive evidence of the taxpayer's design, and the certificate of the Collector if the mailing or issuing of the notice and findings specified in this section is presumptive. (Added by Ordinance #340 - December 19, 1982)

7.430 Warrant for Collection of Taxes

(1) If any tax imposed upon employers by wages paid to employees or any portion of such tax is not paid within thirty (30) days after it becomes due (or within five days, in the case of the termination of the tax quarter by the Collector under the provisions of Section 7.428 of this ordinance) and no provision is made to secure the payment of this by bond, deposit, or otherwise pursuant to regulations promulgated by the Collector, the Collector, pursuant to ORS 267.385 and/or the City Charter and the City Code of the City of Wilsonville shall:

Issue a warrant under its hand and official seal directed to the sheriff of any court of the state commanding him/her to levy upon and sell real and personal property of the taxpayer found within his county, for the payment of the amount of the tax, with the added penalties, interest and the sheriff's cost of executing the warrant, and to return such warrant to the Collector and pay to it the money collected by virtue thereof by a time to be therein specified, not less than sixty (60) days from the date of the warrant.

(2) The sheriff shall, within five (5) days after the receipt of the warrant, file with the clerk of this county a copy thereof, and thereupon the clerk shall enter in the judgment docket, in the column for judgment debtors, the name of the taxpayer mentioned in the warrant, and in appropriate columns the amount of the tax proportion thereof and penalties for which the warrant is issued and the date when such copy is filed. Thereupon the amount of the warrant so docketed shall be come a lien upon the title to and interest in property of the taxpayer against who it is issued in the same manner as a judgment duly docketed in the office of such clerk. The sheriff, thereupon, shall proceed upon the same in all respects, with like effect and in the same manner prescribed by law in respect to executions issued property upon judgment of a court of record, and shall be entitled to the same fees for his/her services in executing the warrant, to be added to and collected as a part of the warrant liability.

(3) In the discretion of the Collector a warrant of like terms, force and effect may be issued and directed to any agent authorized to collect exercise taxes, and in the execution thereof the agent shall have all the powers conferred by law upon sheriffs, but is entitled to no fee or compensation in excess of actual expenses paid in the performance of such duty.

(4) If a warrant is returned not satisfied in full, the Collector shall have the same remedies to enforce the claim for taxes against the taxpayer as if the people of the state had recovered judgment against the taxpayer for the amount of the tax, and shall balance his assessment record by transferring the unpaid deficiency to his delinquent record. (Added by Ordinance #340 - December 19, 1982)

7.432 Discontinuing Business in the Local Transit District

(1) Whenever any person, firm, corporation or association subject to the Payroll & Self Employment Tax ceases to do business in the local transit area, due either to going out of business or to moving all of the business out of the local transit area, the person, firm or corporation shall file forthwith the payroll tax return and pay the tax required by this ordinance, regardless of the time of year. Taxes shall be due and payable only for the actual payroll expense for the part of the year during which the taxpayer did business in the local transit area. Each officer, partner or owner of any taxpayer failing to comply with the terms of this section shall be jointly and severally liable personally for any unpaid amounts of the tax due under this section. The personal liability provided in the preceding sentence shall not be applied to a person solely because of ownership of a minority of stock in a corporation or ownership of any minority interest not involving control of the business entity. (Added by Ordinance #340 - December 19, 1982)

7.434 Refunds

(1) When any amount of any Payroll & Self Employment Tax, penalty or interest has been overpaid, the taxpayer who made the overpayment shall be reimbursed under the terms of this section. If the Collector determines that an overpayment has been made, the Collector shall make the refund whether a claim for the refund has been filed or not. Any taxpayer may make a claim for the refund by filing a statement signed by the taxpayer or by a person with actual knowledge of the facts, stating the reasons for the claim for refund. The Collector shall examine each such claim, and may require additional information and evidence from the taxpayer. The Collector may make an investigation to determine the facts as to whether a refund is due. Such investigation may include examining the books, records and information in computer storage of the taxpayer.

(2) If any sum is due from the taxpayer to the City for any reason, the amount of refund shall be applied first to offset the sum owed by the taxpayer to the City. Any balance remaining thereafter may, at the option of the taxpayer, be held by the Collector to apply on future payroll tax payments. Any sum not used for such offset and not held at the taxpayer's request to apply on future payroll tax payments, shall be returned to the taxpayer as soon as practicable. The Collector shall notify the taxpayer in writing of the Collector's decision approving a claim for refund, denying the claim or approving a refund for a smaller amount than the taxpayer claimed. If the Collector shall deny all or part of the refund claim, the taxpayer may, within thirty days, file a written protest. If the taxpayer fails to file such written protest within thirty days, the taxpayer shall be deemed to have waived any objections to the action of the Collector. Any taxpayer who has filed a written protest in accordance with this section may pursue the administrative remedies and judicial remedies available under City ordinances and state law, to obtain review of the decision denying all or part of the refund. Any action by the Collector under this section, except an action fully approving a claim for refund, shall be accompanied by a set of clear instruction on how to file an administrative appeal or court action and shall make it clear that failure to file a timely administrative appeal or court action will cause the Collector's decision to stand. (Added by Ordinance #340 - December 19, 1982)

7.436 Sale or Other Transfer of Business

(1) If any owner or group of owners acting together, transfer a majority of ownership interest or controlling interest in any business entity that is subject to the Payroll & Self Employment Tax, the seller or transferor must furnish to the buyer or transferee a complete record of payments, accompanied by receipts, showing past payments of the payroll expense tax for the past three years or the period of time since the business was subject to the tax, whichever period is shorter. The buyer and seller, or transferor and transferee, must also furnish written evidence to the Collector that the steps described in at least one of the following paragraphs have been taken:

(2) The seller has filed a Payroll & Self Employment Tax return covering the period up to the date of sale of the business entity, accompanied by payment of all Payroll & Self Employment Tax accrued to the date of sale. This is due not later than ten (10) days after the sale is closed by transfer of ownership, regardless of the payment schedule; or

(3) The buyer or transferee has filed a written agreement with the City, undertaking to pay all payroll taxes to become due, including those accrued during the part of the year before the sale or transfer; or

(4) The buyer has furnished evidence to the City that the funds of the business entity are sufficient and will be sufficient to pay all Payroll & Self Employment Tax anticipated to be due when the next payment is due, that the business entity has acknowledged its responsibility to pay such taxes and that there are no past due payroll expense taxes, penalties or interest payments owed to the City by the business entity; or

(5) A cash deposit or bond with a corporate surety has been filed with the Collector, sufficient to cover the amount of Payroll & Self Employment Tax anticipated to become due for the payroll expenses before the transfer; or

(6) The buyer or seller has provided an alternative means of assuring that the Payroll & Self Employment Tax for the period before the sale will be paid, and such alternative means is reasonably sufficient, in the judgment of the Collector, to insure the payment of the tax when due. (Added by Ordinance #340 - December 19, 1982)

7.438 Receivers, Trustees, Executors, Administrators, Guardians, Conservators and Others

(1) If control of any employer subject to the Payroll & Self Employment Tax passes to any trustee, receiver, executor, administrator, guardian, conservator or other personal representative or fiduciary, such personal representatives or fiduciary shall have all the duties of the employer under this ordinance. (Added by Ordinance #340 - December 19, 1982)

7.440 Right of Privacy

(1) Except when disclosure is required by law or in connection with the collecting and enforcing the Payroll & Self Employment Tax, no City officer or employee shall disclose to any person outside of the Collector's office and information learned from any return or other information filed by any taxpayer under this ordinance. City officers and employees enforcing this ordinance and collecting taxes shall not seek information that is irrelevant to the Payroll & Self Employment Tax. (Added by Ordinance #340 - December 19, 1982)

7.442 Computer Records of Taxpayers

(1) The following rules apply to taxpayers who have records stored in temporary or permanent memory in any computer.

(2) In lieu of any return or report required by this ordinance, any taxpayer may submit a printout from a computer containing all of the information required in the return, in a format approved by the Collector.

(3) Whenever the Collector has the authority or the duty to examine any books and records of any taxpayer, the Collector shall also have the authority or duty to examine irrelevant information stored in any computer used by the taxpayer. The taxpayer need not permit the Collector or any City employee to operate the computer, but the taxpayer shall furnish to the Collector an employee or other person authorized by the taxpayer to operate the computer, permitting readouts and printouts as requested or determined by the Collector. The duties and powers of the Collector may be exercised by any person working under the supervision of the Collector. (Added by Ordinance #340 - December 19, 1982)

7.444 Severability

(1) The provisions of this ordinance are severable, and if any part of this ordinance should be held void by any court of competent jurisdiction, such invalidity shall not affect the remainder of the ordinance, and the remainder of this ordinance shall remain in full force and effect. (Added by Ordinance #340 - December 19, 1982)

7.446 False Information, Failure to File, Penalty

(1) No person, firm, corporation or association required by this ordinance to file any return or report shall fail to file such return or report. No person, firm, corporation or association shall knowingly furnish any false information to the City as all or part of any information furnished under any provision of this ordinance. The furnishing of such false information shall constitute a violation of this section even if the person furnishing the false information could not have profited or saved money by the deception. If any individual officer, employee or owner of any firm, corporation or association knowingly furnishes such false information, such individual

shall also be subject to the penalty set out in this section. The penalty set out in this section shall be in addition to any interest, late charge or other civil penalty provided by ordinance. Any person, firm, corporation or association committing any violation described in this section shall, upon conviction, be fined not less than one hundred dollars (\$100), nor more than two thousand five hundred dollars (\$2,500), for each offense, and shall be subject to one year in jail. A separate offense shall be deemed committed with the filing of each false document. (Added by Ordinance #340 - December 19, 1982)

7.448 Appeal from Collector

(1) An appeal from the determination upon the application made by the taxpayer for refund or revision of any tax, as provided for in this ordinance, may be taken by the taxpayer to the circuit court located in Clackamas County. Any such appeal must be within sixty (60) days after notice of the Collector's determination has been received by the taxpayer, given as provided in this ordinance. If the Department fails to notify the taxpayer within twelve (12) months after the claim was filed of its determination of the claim for refund or revision of the tax, the taxpayer may then appeal to the circuit court.

(2) Unless otherwise ordered by the circuit court, an appeal to the Department or to the court from an assessment of taxes, shall not stay proceedings to collect any unpaid tax if the Collector believes that collection of the tax will be jeopardized by delay. (Added by Ordinance #340 - December 19, 1982)

MARIJUANA AND MARIJUANA-INFUSED PRODUCTS TAX

7.500 Purpose

For the purposes of this Section, any Seller of Marijuana, medical Marijuana, or Marijuana-infused products in the City is exercising a taxable privilege. The purpose of this Section is to impose a Tax upon the Retail Sale of Marijuana, medical Marijuana, and Marijuana-infused products and not on the business of producing Marijuana.

7.505 Definitions

When not clearly otherwise indicated by the context, the following words and phrases, as used in Sections 7.500 through 7.565, have the following meanings:

- (1) Director means the City's Finance Director or his/her designee.
- (2) Gross Taxable Sales means the total amount received in money, credits, property, or other consideration from Sales of Marijuana, medical Marijuana, and Marijuana-infused products that are subject to the Tax imposed by Section 7.510.
- (3) Marijuana means all parts of the plant of the Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin, as may be defined by Oregon Revised Statutes as they currently exist or may from time to time be amended. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.
- (4) Oregon Medical Marijuana Program means the office within the Oregon Health Authority that administers the provisions of ORS 475.300 through 475.346, the Oregon Medical Marijuana Act, and all policies and procedures pertaining thereto.
- (5) Person means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or any group or combination acting as a unit, including the United States of America, the state, and any political subdivision thereof, or the manager, lessee, agent, servant, officer, or employee of any of them.
- (6) Purchase or Sale means the retail acquisition or furnishing for consideration by any Person of Marijuana within the City and does not include the acquisition or furnishing of Marijuana by a grower or processor to a Seller.
- (7) Registry Identification Cardholder means a Person who has been diagnosed by an attending physician with a debilitating medical condition and for whom the use of medical

Marijuana may mitigate the symptoms or effects of the Person's debilitating medical condition, and who has been issued a registry identification card by the Oregon Health Authority.

(8) Retail Sale means the transfer of goods or services in exchange for any valuable consideration and does not include the transfer or exchange of goods or services between a grower or processor and a Seller.

(9) Seller means any Person who sells Marijuana or Marijuana-infused products to purchasers for money, credit, property, or other consideration within the City.

(10) Tax means either the tax payable by the Seller or the aggregate amount of taxes due from a Seller during the period for which the Seller is required to report collections under Section 7.520.

(11) Taxpayer means any Person obligated to account to the Director for Taxes collected or to be collected, or from whom a Tax is due, under the terms of this Section 7.500 series.

7.510 Levy of Tax

(1) Every Seller exercising the taxable privilege of selling Marijuana and Marijuana-infused products, as defined in Section 7.505, is subject to and must pay a Tax for exercising that privilege.

(2) The amount of Tax levied is as follows:

(a) Seven and one half (7.5%) percent of the Gross Taxable Sale amount paid to the Seller of Marijuana and Marijuana-infused products by a Person who is a Registry Identification Cardholder.

(b) Twelve (12%) percent of the Gross Taxable Sale amount paid to the Seller of Marijuana and Marijuana-infused products by Persons who are purchasing Marijuana and Marijuana-infused products but are not doing so under the provisions of the Oregon Medical Marijuana Program.

(3) The City Council may, by resolution, establish a different rate for the sale of such products in the future.

7.515 Deductions

The following deductions are allowed against Sales received by the Seller providing Marijuana:

(1) Documented refunds of Sales actually returned to any purchaser.

(2) Documented adjustments in Sales that amount to a refund to a purchaser, providing such adjustment pertains to the actual Sale of Marijuana or Marijuana-infused products and does not include any adjustments for other services furnished by a Seller.

7.520 Seller Responsible for Payment of Tax

(1) Every Seller must, on or before the last day of the month following the end of each calendar quarter (in the months of April, July, October, and January), make a return to the Director, on forms provided by the City, specifying the total Sales subject to Section 7.510 and the amount of Tax collected under Section 7.510. The Seller may request, or the Director may establish, shorter reporting periods for any Seller if the Seller or Director deems it necessary in order to ensure collection of the Tax. The Director may require further information in the return relevant to payment of the Tax. A return is not considered filed until it is actually received by the Director.

(2) At the time the return is filed, the Seller must remit to the City the full amount of the Tax collected. Payments received by the City for application against existing liabilities will be credited toward the period designated by the Taxpayer under conditions that are not prejudicial to the interest of the City. A condition considered prejudicial is the imminent expiration of the statute of limitations for a period or periods.

(3) The City will apply non-designated payments in the order of the oldest liability first, with the payment credited first toward any accrued penalty, then to interest, then to the underlying Tax, until the payment is exhausted. Crediting of a payment toward a specific reporting period will be first applied against any accrued penalty, then to interest, then to the underlying Tax.

(4) If the Director, in his or her sole discretion, determines that an alternative order of payment application would be in the best interest of the City in a particular tax or factual situation, the Director may order such a change. The Director may establish shorter reporting periods for any Seller if the Director deems it necessary in order to ensure collection of the Tax. The Director also may require additional information in the return relevant to payment of the liability. When a shorter return period is required, penalties and interest will be computed according to the shorter return period. Returns and payments are due immediately upon cessation of business for any reason. Sellers must hold in trust all Taxes collected pursuant to Section 7.510 for the City's account until the Seller makes payment to the City. A separate trust bank account is not required in order to comply with this provision.

(5) Every Seller required to remit the Tax imposed by Section 7.510 is entitled to retain five percent of all Taxes collected and due to the City to defray the costs of bookkeeping and remittance.

(6) Every Seller must keep and preserve, in an accounting format established by the Director, records of all Sales made by the Seller and such other books or accounts as the Director may require. Every Seller must keep and preserve for a period of three years all such books,

accounts, and other records. The Director has the right to inspect all such records at all reasonable times.

7.525 Penalties and Interest

- (1) Any Seller who fails to remit any portion of any Tax imposed by Section 7.510 within the time required must pay a penalty of ten percent (10%) of the amount of the Tax, in addition to the amount of the Tax.
- (2) If any Seller fails to remit any delinquent remittance on or before a period of 60 days following the date on which the remittance first became delinquent, the Seller must pay a second delinquency penalty of ten percent (10%) of the amount of the Tax, in addition to the amount of the Tax and the penalty first imposed.
- (3) If the Director determines that the nonpayment of any remittance due under Section 7.510 is due to fraud, a penalty of twenty-five percent (25%) of the amount of the Tax will be added thereto, in addition to the penalties stated in Section 7.525(1) and (2).
- (4) In addition to the penalties imposed, any Seller who fails to remit any Tax imposed by Section 7.510 must pay interest [at the rate of one percent (1%) per month] or fraction thereof on the amount of the Tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
- (5) Every penalty imposed, and any interest that accrues under the provisions of Section 7.525(4), becomes a part of the Tax required to be paid.
- (6) All sums collected pursuant to the penalty provisions in Section 7.525(1), (2), and (3) will be distributed to the City's general fund.
- (7) Penalties for certain late Tax payments may be waived or reduced pursuant to policies and processes adopted by the Director. However, the Director is not required to create a penalty waiver or reduction policy. If the Director does not create a policy for waivers or reductions, no waivers or reductions are allowed.

7.530 Failure to Report and Remit Tax

- (1) If any Seller fails to make any report of the Tax required by Section 7.510 within the time provided in Section 7.520, the Director will proceed to obtain facts and information on which to base the estimate of Tax due. As soon as the Director procures such facts and information upon which to base the assessment of any Tax imposed by Section 7.510 and payable by any Seller, the Director will determine and assess against such Seller the Tax, interest, and penalties provided for by Section 7.525.

(2) If the Director makes a determination as outlined in Section 7.530(1), the Director must give notice to the Seller of the amount assessed. The notice must be personally served on the Seller or deposited in the United States mail, postage prepaid, addressed to the Seller at the last known place of address.

(3) The Seller may appeal the determination as provided in Section 7.535. If no appeal is timely filed, the Director's determination is final and the amount assessed is immediately due and payable.

7.535 Appeal

(1) Any Seller aggrieved by any decision of the Director with respect to the amount of Tax owed, along with interest and penalties, if any, may appeal the decision to the City Manager.

(2) The Seller must file the appeal within 30 days of the City's serving or mailing of the determination of Tax due. The Seller must file using forms provided by the City.

(3) Upon receipt of the appeal form, the City Manager will schedule a hearing to occur within 20 business days. The City Manager will give the Seller notice of the time and date for the hearing no less than seven days before the hearing date. At the hearing, the City Manager will hear and consider any records and evidence presented bearing upon the Director's determination of amounts due and make findings affirming, reversing, or modifying the determination. The Director and the appellant may both provide written and oral testimony during the hearing. The findings of the City Manager are final and conclusive. The City will serve the findings upon the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due is immediately due and payable upon the service of notice.

7.540 Refunds

(1) The City may refund to the Seller any Tax, interest, or penalty amount under any of the following circumstances:

- (a) The Seller has overpaid the correct amount of Tax, interest, or penalty;
- (b) The Seller has paid more than once for the correct amount owed; or
- (c) The City has erroneously collected or received any Tax, interest, or penalties.

(2) The City may not issue a refund under Section 7.540(1) unless the Seller provides to the Director a written claim under penalty of perjury stating the specific grounds upon which the claim is founded and on forms furnished by the City. The Seller must file the claim within one year from the date of the alleged incorrect payment to be eligible for a refund.

(3) The Director has 20 calendar days from the date of the claim's receipt to review the claim and make a written determination as to its validity. After making the determination, the Director will notify the claimant in writing of the determination by mailing notice to the claimant at the address provided on the claim form.

(4) If the Director determines the claim is valid, the claimant may either claim a refund or take as a credit against Taxes collected and remitted the amount that was overpaid, paid more than once, or erroneously received or collected by the City. The claimant must notify the Director of the claimant's choice no later than 15 days following the date the Director mailed the determination, and the claimant must do so in a manner prescribed by the Director.

(5) If the claimant does not notify the Director of the claimant's choice within the 15-day period and the claimant is still in business, the City will grant a credit against the Tax liability for the next reporting period. If the claimant is no longer in business, the City will mail a refund check to claimant at the address provided in the claim form.

(6) The City will not pay a refund unless the claimant establishes by written records the right to a refund and the Director acknowledges the claim's validity.

7.545 Actions to Collect

(1) Any Tax required to be paid by any Seller under the provisions of Section 7.510 is a debt owed by the Seller to the City. Any Tax collected by a Seller that has not been paid to the City is a debt owed by the Seller to the City. Any Person owing money to the City under the provisions of Section 7.510 is liable to an action brought in the name of the City of Wilsonville for the recovery of the amount owing. In lieu of filing an action for recovery, the City, when Taxes due are more than 30 days delinquent, may submit any outstanding Tax due to a collection agency. So long as the City has complied with the provisions set forth in ORS 697.105, if the City turns over a delinquent Tax account to a collection agency, it may add to the amount owing an amount equal to the collection agency fees, not to exceed the greater of Fifty Dollars (\$50) or fifty percent (50%) of the outstanding Tax, penalties, and interest owing.

7.550 Violation Infractions

(1) All violations of Sections 7.510 and 7.520 are punishable as set forth in City Code Section 1.013. It is a violation of Sections 7.510 and 7.520 for any Seller or other Person to:

- (a) Fail or refuse to comply as required herein;
- (b) Fail or refuse to furnish any return required to be made;
- (c) Fail or refuse to permit inspection of records;
- (d) Fail or refuse to furnish a supplemental return or other data required by the Director;

- (e) Render a false or fraudulent return or claim; or
 - (f) Fail, refuse, or neglect to remit the Tax to the City by the due date.
- (2) The remedies provided by Sections 7.525, 7.545, and 7.550(1) are not exclusive and do not prevent the City from exercising any other remedy available under the law.
- (3) The remedies provided by this Section do not prohibit or restrict the City or other appropriate prosecutor from pursuing criminal charges under state law or City ordinance.

7.555 Confidentiality

- (1) Except as otherwise required by law, it is unlawful for the City, any officer, employee, or agent to divulge, release, or make known in any manner any financial information submitted or disclosed to the City under the terms of Section 7.520. Nothing in this Section 7.555 prohibits any of the following:
- (a) The disclosure of the names and addresses of any Person who is operating a licensed establishment from which Marijuana is sold or provided;
 - (b) The disclosure of general statistics in a form which would not reveal an individual Seller's financial information;
 - (c) Presentation of evidence to the court, or other tribunal having jurisdiction, in the prosecution of any criminal or civil claim by the City or an appeal from the City for amounts due the City under Section 7.510;
 - (d) The disclosure of information when such disclosure of conditionally exempt information is ordered under public records law procedures; or
 - (e) The disclosure of records related to a business' failure to report and remit the Tax when the report or Tax is in arrears for over six months or when the Tax exceeds \$5,000. The City Council expressly finds that the public interest in disclosure of such records clearly outweighs the interest in confidentiality under ORS 192.501(5).

7.560 Audit of Books, Records, or Persons

- (1) The City may examine or may cause to be examined by an agent or representative designated by the City for that purpose, any books, papers, records, or memoranda, including copies of Seller's state and federal income Tax return, bearing upon the matter of the Seller's Tax return for the purpose of determining the correctness of any Tax return, or for the purpose of an estimate of Taxes due. All books, invoices, accounts, and other records must be made available within the City limits and be open at any time during regular business hours for examination by

the Director or an authorized agent of the Director. If any Taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the Director may immediately seek a subpoena from the municipal court to require that the Taxpayer or a representative of the Taxpayer attend a hearing or produce any such books, accounts, and records for examination.

7.565 Forms and Regulations

(1) The Director is authorized to prescribe forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment, and collection of the Marijuana Tax, and to provide for:

(a) A form of report on Sales and Purchases to be supplied to all vendors;

(b) The records that Sellers providing Marijuana and Marijuana-infused products must keep concerning the Tax imposed by Section 7.510.

Sections 7.000 Prohibition and Section 7.010 Penalty were repealed in their entirety by Ordinance No. 495 adopted 1/6/98. These sections have been replaced with Section 7.000 Definitions; and Section 7.010 Permit Required.

Sections 7.020 – 7.090 added by Ord. 495, 1/6/98.

Section 7.020(k) added by Ord. 537, 8/20/01

Sections 7.300, 7.320, 7.330 and 7.370 amended 2/3/14 by Ordinance No. 734.

Section 7.404 Transit Tax amended by Ord. 652 10/1/08

Section 7.500 Marijuana and Marijuana-Infused Products Tax adopted by Ord. 748 on 9/30/14

Section 7.570 Time, Place, and Manner Regulations added by Ord. 800 adopted on 10/17/16

Section 7.570 Time, Place and Manner Regulations is removed per Ord. 800 since the Voters of the City of Wilsonville did not vote to allow marijuana businesses within the City limits at the November 2016 election. 2/1/17

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